



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/034,335	12/28/2001	Charles Morell	KCC-14,977	8352
35844	7590	03/22/2004	EXAMINER	
PAULEY PETERSEN KINNE & ERICKSON 2800 WEST HIGGINS ROAD SUITE 365 HOFFMAN ESTATES, IL 60195			THOMPSON, CAMIE S	
			ART UNIT	PAPER NUMBER
			1774	

DATE MAILED: 03/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/034,335	Applicant(s) MORELL ET AL.	
	Examiner Camie S Thompson	Art Unit 1774	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Amendment filed January 20, 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16, 25 and 26 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 and 25-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 1774

DETAILED ACTION

1. Applicant's amendment and accompanying remarks filed January 12, 2004 have been acknowledged.
2. Examiner acknowledges amended claims 1-2, 16 and 26.
3. Applicant argues the restriction requirement. Applicant argues that there is no distinctness between the elastic laminate and method for making a stranded elastic laminate web. The elastic laminate can be made by another method. Further, the search required for each grouping is different.
The requirement is still deemed proper and therefore is made **FINAL**.
4. The objection to claim 26 is withdrawn due to applicant's amended claim 26.
5. The rejection of claims 1-11, 13-16 and 25 under 35 U.S.C. 102(b) as being anticipated by Quantrille et al., U.S. Patent Number 5,804,286 is withdrawn due to applicant's argument.
6. The rejection of claims 2 and 12 under 35 U.S.C. 103(a) as being unpatentable over Quantrille et al., U.S. Patent Number 5,804,286 in view of Morman et al., U.S. Patent Number 5,883,028 is withdrawn due to applicant's argument.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-16 and 25-26 are rejected under 35 U.S.C. 102(b) as being anticipated by

WO0037723.

Art Unit: 1774

The European reference discloses multicomponent fine fiber webs and multilayer laminates as per instant claims 14 and 15 (see abstract). The figures in the reference disclose a first facing web; a second facing web and a plurality of thermoplastic elastomeric fibers strands located between the first and second facing webs as per instant claim 1. Additionally, the reference discloses that the fiber strands have an elastic core and adhesive surfaces that bond the first and second facing webs as per instant claim (see pages 3-4). Also, the European reference discloses that the first web can be on the interior side of the garment and the second facing web can be on the exterior side of the garment as per instant claims 2 and 16 (see figure). The reference also discloses that the nonwoven webs can be formed such that the fibers are still tacky when deposited and bonded at contact points as per instant claims 5, 7 and 9 (see pages 3-4). It is also disclosed in the reference that the polymeric components of the multicomponent meltblown fibers can be selected from thermoplastic polymers such as polyolefins, polyamides, polyesters and polyurethanes as per instant claims 3, 4, 8 and 12-13 (see page 3). Page 3 of the reference discloses that the thermoplastic fibers can be positioned in a side-by-side arrangement or sheath/core arrangement as per instant claim 8. The basis weight of the web is disclosed as having a range from about 5 g/m² to about 300 g/m², which is within the range of the basis weight in instant claim 12 (see page 3). The reference also discloses spunbond fibers as per instant claim 10 (see abstract). Page 12 discloses that the laminates of the reference can be used as disposable garments such as bandages, wound dressings and surgical gowns as per instant claim 25. Claim 26 is a product-by-process claim. Even though product-by-process claims are limited and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the

Art Unit: 1774

product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior art was made by a different process. Instant claim 26 and the reference disclose a disposable garment including an elastic web. The manner in which the disposable garment was made does not make it a different product. Therefore, the disposable garment including an elastic web is the same as the disposable garment in the European reference.

Response to Arguments

9. Applicant's arguments with respect to claims 1-16 and 25-26 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Camie S. Thompson whose telephone number is (571) 272-1530. The examiner can normally be reached on Monday through Friday from 7:30 am to 4:00 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia H. Kelly, can be reached at (571) 272-1526. The fax phone number for the Group is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CYNTHIA H. KELLY
SUPERVISOR
TECHNICAL STAFF
TO: 10/034,335
10/19/00

Cynthia H. Kelly